

REMARKS

I. STATUS OF THE CLAIMS

Claims 1-9, 11-15, and 17-34 are pending. Claims 1 and 15 are amended in this response solely to provide a higher-quality image of Formula (1). Support for this amendment can be found in the Specification as-published at paragraphs [0018], [0032], and [0441] as well as in original claims 10 and 15. Accordingly, no new matter has been added.

II. EXAMINER INTERVIEW

Applicants wish to thank the Examiner for the courtesies extended to Applicants' representatives during the April 30, 2008, telephone interview ("the Interview"). Applicants are in agreement with the statements regarding the substance of the interview as presented in the Interview Summary dated May 5, 2008.

III. REJECTION UNDER 35 U.S.C. § 103

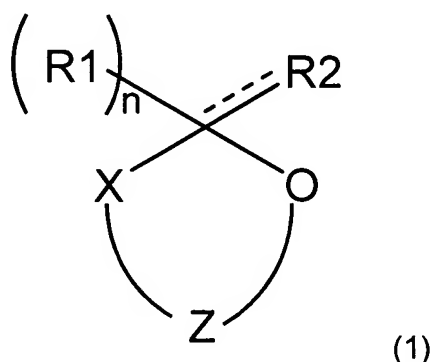
In the Final Office Action dated January 28, 2008, the Examiner rejects Claims 1-9, 11-15, and 17-34 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,689,372 (the '372 patent). In making the rejection, the Examiner asserts that the '372 patent:

[teaches] antimicrobial composition comprising [oxathiazolone] compounds of formula I. The compound of general formula I of '372 [reads] on the instant cyclic carbonate because instant claims allow for the presence of Oxygen at R₂, substituting R₁ with an alkyl group or substituted with groups such as aryl groups, with n being 1 (see compounds of col. 1-2). According to the instant formula 1, the variable "z" may be a divalent linear alkylene

group optionally substituted with heteroatom, and '372
[teaches] an alkylene group substituted with an N atom.

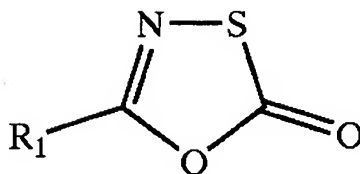
Office Action at 2.

Applicants disagree and respectfully traverse. Contrary to the Examiner's assertion, the oxathiazolone compounds of the '372 patent do **not** meet the limitations of claimed Formula (1). The present claims are directed to compositions comprising at least one cyclic carbonate of Formula (1), reproduced in part below:



Z is defined as "chosen from divalent linear or branched C₂ to C₃₀ alkylene radicals, optionally interrupted by at least one heteroatom, and optionally substituted by at least one radical chosen from hydroxy, C₆ to C₃₀ aryl, amino, carboxy, halogen, C₁ to C₁₀ alkoxy, and thiol radicals." Thus, the Z segment of the cyclic carbonate ring according to the instant claims must comprise at least two carbon atoms, optionally **interrupted** (but not replaced) by heteroatoms, and optionally **substituted** (but again not replaced by) certain radicals as claimed.

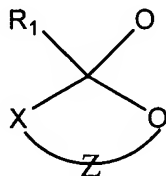
In contrast, the oxathiazolone compounds of the '372 patent have the structure reproduced below:



See '372 at, e.g., Abstract, col. 1- 2, Examples 1-6, Claim 1, Claim 3.

Applicants respectfully submit that the '372 patent's oxathiazolones do not meet the limitations of present Formula (1) as they lack a segment (such as the presently claimed Z) within the carbonate ring comprising at least two carbon atoms. In other words, even if X in present Formula (1) is S, R2 is O (oxygen), and n is equal to 0 (zero), Z of Formula (1) cannot correspond to the -C=N- portion of the '372 patent's oxathiazolone ring. Z must have at least 2 carbons atoms (C₂ to C₃₀), and although the alkylene chain of Z can be **interrupted** by at least one heteroatom or **substituted** by the radicals listed in the claims, there still must be 2 carbons in the Z segment of the ring. Contrary to the Examiner's assertion that "'372 [teaches] an alkylene group substituted with an N atom," Applicants submit that the '372 patent actually teaches a group in which one of the carbon atoms of an alkylene group has been **replaced** by a nitrogen atom (-C=N- instead of -C=C-).¹

¹ Applicants further note that the Examiner's proposed compound according to the instant claims ("Oxygen at R2, substituting R1 with an alkyl group or substituted with groups such as aryl groups, with n being 1") does not in fact correspond to an oxathiazolone according to the '372 patent. The Examiner's proposed compound would have the following structure:



wherein X is S or O. Such a compound is not an oxathiazolone according to the '372 patent for at least the reason that it does not comprise a carbonyl group.

Applicants note that during the Interview, the Examiner agreed that the '372 patent does not teach compounds according to the instant claims. See Interview Summary at page 3 (Continuation Sheet).

In view of the above, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a).

IV. CONCLUSION

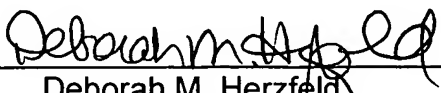
In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims. If the Examiner believes a telephone conference could be useful in resolving any of the outstanding issues, she is respectfully invited to contact Applicants' undersigned counsel at (202) 408-4368.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account No. 06-0916.

Respectfully submitted,

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Dated: May 27, 2008

By: 
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